

Rule 8, Ariz. R. Crim. P.

SPEEDY TRIAL — Speedy trial right and statute of limitations distinguished — Revised 11/2009

A.R.S. § 13-107 sets statutes of limitation for the filing of criminal actions — generally, one year for misdemeanors and seven years for felonies, although homicide cases may be filed at any time. A.R.S. § 13-107(G)¹ provides that if the action is commenced within the statute of limitations and is later dismissed "for any reason," the State may re-file the action within six months after the dismissal even if the statute of limitations has expired. If charges against a criminal defendant are initially dismissed and later re-filed by the State, the time limits of Rule 8.2(a) begin anew. *State v. Mendoza*, 170 Ariz. 184, 187, 823 P.2d 51, 54 (1992); accord, *Johnson v. Tucson City Court*, 156 Ariz. 284, 287, 751 P.2d 600, 603 (App. 1988).

The time limits imposed by Rule 8 are not statutes of limitation. *State v. Fowler*, 156 Ariz. 408, 411, 752 P.2d 497, 500 (App.1987). "[I]n criminal law a statute of limitations deals only with the right to commence a criminal case. Time limits prescribed for steps to be taken subsequent to the commencement of a case are not statutes of limitation." *Id.* "Rule 8 is not a 'statute of limitations' within which the state must bring an action against a defendant, but merely a limitation on when a trial must be held after that action is brought." *State v. Lemming*, 188 Ariz. 459, 937 P.2d 381, 383 (App. 1997).

¹ A.R.S. § 13-107(G) provides:

If a complaint, indictment or information filed before the period of limitation has expired is dismissed for any reason, a new prosecution may be commenced within six months after the dismissal becomes final even if the period of limitation has expired at the time of the dismissal or will expire within six months of the dismissal.

The Arizona Supreme Court has stated, "Rule 8 and our decisions interpreting rule 8 establish the time limits within which the state must commence a trial — not the time limits within which the state must commence an action against a criminal defendant." *State v. Mendoza*, 170 Ariz. 184, 193, 823 P.2d 51, 60 (1992).